IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7789 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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GUJARAT HEAVY CHEMICALS LTD

Versus

DEPUTY EXECUTIVE ENGINEER

Appearance:

1. Special Civil Application No. 7789 of 1992

M/S TRIVEDI & GUPTA for Petitioner

MR MK DAGLI, AGP for Respondent Nos. 1 & 2

MR TR MISHRA for Respondent No. 3

CORAM : MR.JUSTICE J.M.PANCHAL

Date of decision: 02/08/2002

ORAL JUDGEMENT

In this petition, which is filed under Article 226 of the Constitution, the petitioner-Company has

prayed to issue an appropriate writ or order declaring that pursuant to the purchase of Saurashtra Salt Works Private Limited by the petitioner, the petitioner has become the successor of the said Private Limited Company as regards the buildings owned by the State Government and, therefore, is entitled to the transfer of tenancy right which stands in the name of M/s. Saurashtra Salt Works Pvt.Ltd. It is also prayed to issue an appropriate writ or order holding that the respondent nos. 1 & 2 are bound by the agreement/decision arrived at pursuant to the detailed negotiation whereby the rent of the buildings owned by the State Government came to be fixed at Rs. 2,768.80 ps. as a consideration for transferring the tenancy rights in the name of the petitioner-Company. Further, the petitioner has prayed to issue a writ of prohibition or any other appropriate writ or direction prohibiting the respondents from dispossessing the petitioner from possession of the buildings owned by the Government and/or prohibiting and restraining the respondents from evicting the petitioner-Company from the buildings owned by the State Government or taking over possession of the said buildings, in any manner.

2. The petitioner is a Limited Company registered and incorporated under the provisions of the Companies Act, 1956. The petitioner purchased a Salt Unit from M/s. Saurashtra Salt Works Private Limited ("S.S.W.Pvt.Ltd." for short) at Port Albert Victor, District : Amreli. At Port Albert Victor, there are quarters belonging to Public Works Department of the State of Gujarat, which consist of (1) An Engineer's Bungalow, (2) Sir Pattani Dharmshala, (3) Darbari Utara Building, (4) Office Building, (5) residential quarters (10 in number), and (6) residential quarters (10 in number) meant for peons. The above referred to buildings were given on rent to S.S.W.Pvt.Ltd. at the rate of Rs.653/- per month. While effecting sale of Salt Unit to the petitioner, the S.S.W.Pvt.Ltd. had also agreed to sell the tenancy rights to the petitioner-Company. After purchase of Salt Unit, the petitioner had applied to the respondent no.1 to transfer tenancy rights to it, and the case of the petitioner is that the request of the petitioner-Company was considered favourably by the respondent no.1, who had sent necessary proposal to the respondent no.2, who in turn had forwarded the same to the Public Works Department of the State of Gujarat, Gandhinagar, for rendering necessary decision, but no final decision was taken to transfer the tenancy rights to the petitioner. The claim advanced by the petitioner in the petition is that without any justifiable reason, the respondents have backed out from the solemn promise

and commitment, and had informed the petitioner that the petitioner was not in lawful possession of the quarters in question. The petitioner was served with a letter dated September 19, 1992 by the respondent no.1 calling upon the Manager of the petitioner to hand over the possession of the quarters immediately. A copy of the said letter is produced by the petitioner at Annexure-B to the petition. Apprehending dispossession of the quarters in question, the petitioner has filed the present petition and claimed reliefs to which reference is made earlier.

3. Heard the learned counsel for the petitioner and Mr.M.K.Dagli, learned Assistant Government Pleader for the respondent nos.1 & 2 as well as Mr.T.R.Mishra, learned counsel for the respondent no.3. In substance, what is prayed for by the petitioner is that the Government should be directed to transfer tenancy rights conferred on erstwhile Saurashtra Salt Works Pvt. Ltd., in favour of the petitioner-Company. It is an admitted position that till this date, the Government has not transferred the tenancy rights to the petitioner, nor entered into any independent agreement authorising the petitioner to occupy the quarters in question on rental basis. What is sought to be specifically enforced in the present petition are the terms of an agreement, which was/is inchoate in nature and which is neither reduced into writing nor concluded between the parties from which it can be said that some rights are flowing to the petitioner. It is well settled that even terms of a concluded contract cannot be specifically enforced by way of a writ of the Court and, therefore, there is no question of enforcing so-called terms of an agreement, which is not concluded. The petitioner has failed to point out any legal right under which it is entitled to have the properties belonging to the Government on rental basis. Whether to give building on rent or not, is within the sole discretion of the Government and the Court cannot compel the Government to enter into an agreement of tenancy with the petitioner. Under the circumstances, I am of the opinion that the petition is misconceived and the reliefs claimed in the petition cannot be granted.

For the foregoing reasons, the petition fails and is dismissed, with no order as to costs. Interim relief granted earlier is hereby vacated.

(J.M.Panchal,J.)

(patel)